MINUTES
of the
FORTY-SECOND MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

August 6, 2013
Room 322, State Capitol
Santa Fe

The forty-second meeting of the Public School Capital Outlay Oversight Task Force (PSCOOTF) was called to order by Representative Mimi Stewart, chair, on August 6, 2013 at 9:07 a.m. in Room 322 of the State Capitol.

Present
Rep. Mimi Stewart, Chair
Tom Clifford, Secretary, Department of Finance and Administration
Cecilia J. Grimes
Kirk Hartom
Leonard Haskie
Rep. Larry A. Larrañaga
Rep. James Roger Madalena
Michael Marcelli, Designee for Secretary Clifford
Rep. W. Ken Martinez
Sen. George K. Munoz
Antonio Ortiz, Designee for Paul Aguilar, Public Education Department
Sen. Mary Kay Papen
Mike Phipps
T.J. Parks
Sen. Sander Rue
Sen. Benny Shendo, Jr.
Sen. John Arthur Smith
Rep. James E. Smith
Allan Tapia

Absent
Sen. John M. Sapien, Vice Chair
Dr. Carl Foster
Dr. Lisa Grover
Robbie G. Heyman
Sen. Cliff R. Pirtle
Judy Rabon
Rep. Henry Kiki Saavedra

Advisory Members
Rep. Eliseo Lee Alcon
Rep. Sandra D. Jeff
Sen. William P. Soules

Rep. Sharon Clahchischilliage
Rep. Roberto "Bobby" J. Gonzales
Sen. Howie C. Morales
Sen. John C. Ryan
Sen. William E. Sharer
Sen. Pat Woods

Staff
Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Sharon Ball, Senior Researcher, LCS
Claudia Armijo, Staff Attorney, LCS
Cassandra Jones, Research Assistant, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Tuesday, August 6

Call to Order

Representative Stewart called the meeting to order and asked task force members to introduce themselves.

Property Tax Rates: A Brief Overview

Ms. Ball explained to the task force that a mill represents $1.00 for every $1,000 of property tax valuation. Noting that Albuquerque Public Schools is the largest district in the state, Ms. Ball said that some Albuquerque residents pay approximately 46.02 mills, by far the highest mill levy rate in the state. Ms. Ball reviewed mill rates in various other districts, noting that some Gadsden Independent School District residents pay more than 35 mills, Socorro residents pay more than 31 mills, Portales residents pay more than 26 mills, Hobbs residents pay more than 25 mills, Carlsbad residents pay more than 22 mills and Chama residents pay more than 21 mills.

Ms. Ball referred the task force to a handout that sorted a sample of districts by assessed valuation per MEM and reviewed some of the figures with the task force members. She noted that the Cimarron school district has one of the highest assessed valuations per MEM in the state, at more than $1 million per MEM. On the other hand, she pointed out, Zuni has less assessed property tax valuation per MEM than any other district in the state, at $1,838 per MEM. She explained that because of this inequity among per MEM valuations, the state district court found New Mexico's funding system for capital outlay to be unconstitutional, and the legislature and the executive, as a result, set up a standards-based program about 10 years ago to address this unconstitutional inequity.

Ms. Ball reviewed the assessed valuation per MEM for several other districts, including Santa Fe's assessed valuation per MEM at almost $447,000 and Hobbs' at just over $150,000. Las Vegas has an assessed valuation per MEM of almost $133,000, and Dexter's is just under $65,000.

Ms. Ball referred task force members to a handout in their resource binders prepared by the Department of Finance and Administration, entitled *2012 Property Tax Facts*.

Members of the task force asked questions about and discussed property tax rates in various districts, how district effort is quantified for the purposes of the offset, 2012 PSCOOTF-endorsed legislation, adequacy of school buildings in small districts, challenges specific to Zuni and local match requirements for districts to receive Public School Capital Outlay Council (PSCOC) funding.

Task force members requested that the Public Education Department (PED) provide a breakdown of the way in which the offset formula is calculated.

Public School Capital Outlay Funding Stream: Report on the Severance Tax Permanent Fund (STPF) and Issuance of Supplement

Steven K. Moise, state investment officer for the State Investment Council (SIC), told the task force that on June 30, 2013, STPF assets were $4.147 billion. In October 2007, the fund's high watermark, STPF assets were $4.803 billion. STPF annual distributions are 4.7 percent of the fund's five-year average. In fiscal year (FY) 2014, distributions from the STPF will be $170 million. In FY 2009, STPF distributions were $191 million. Mr. Moise compared the STPF to the Land Grant Permanent Funds (LGPF). In June 2013, the balance of the STPF was $4.147 billion and the balance of the LGPF was $12.137 billion. He noted that in October 2007, the balance of the STPF was $4.803 billion and the balance of the LGPF was $11.406 billion. He emphasized that while the balance of the LGPF has increased by 6.5 percent, the balance of the STPF has decreased by 13.7 percent.

Mr. Moise explained that the LGPF has been distributing 5.8 percent of its five-year average since 2003, while the STPF distributes 4.7 percent of its five-year average. In FY 2014, the STPF will distribute $170 million to the general fund, and the LGPF will distribute $535 million to beneficiaries. The LGPF had a 4.1 percent rate-of-investment return over five years and a 7.1 percent rate-of-investment return over 10 years. The STPF had a three percent rate-of-investment return over five years and a 6.4 percent rate-of-investment return for 10 years.

Mr. Moise told the task force that the LGPF receives regular and healthy contributions that help to maintain and grow the LGPF. On the other hand, he said, the STPF receives inconsistent contributions and is losing real-dollar value, which is resulting in diminished distributions to the general fund. Mr. Moise reminded the task force that 45 percent of annual STPF distributions go to the public school operating budget. Mr. Moise told the task force that the lower the yearly contributions, the less the fund can grow, which will lower the annual distributions to school general funds.

Members of the task force discussed and asked questions about contributions to the STPF, SIC investment requirements for each of the funds, when the State Board of Finance (SBOF) allocates to the STPF, constitutional requirements for the funds, the possibility of investing in foreign markets, the Uniform Prudent Investor Act and the effects of current federal sequestration on the funds.

Members of the task force requested that the SBOF make a presentation on distributions to the Severance Tax Bonding Fund and the STPF.

Sources to Finance School-Related Buildings Outside the Public School Capital Outlay Act

Zach Dillenback, chief lending officer for the New Mexico Finance Authority (NMFA), told the task force that the NMFA's mission is to improve the lives of New Mexicans by planning and financing infrastructure, strengthening the economy through public-private partnerships and setting the standard for superior, diverse, innovative and solution-driven financing.

By way of background, Mr. Dillenback explained that the NMFA was created by the legislature in 1992 to finance critical infrastructure needs in New Mexico. Local governments in New Mexico have access to decreased interest rates and costs of financing. He said that the Public Project Revolving Fund (PPRF) is a loan fund that was created to assist a wide range of governmental entities to access capital markets at an "all-in" cost that is highly competitive, and usually more competitive, than other financing alternatives available to public entities. The PPRF is primarily funded through the NMFA's share of government gross receipts taxes, which provide approximately $26 million per year in new capital. The NMFA uses this capital base to make loans to qualified borrowers and then replenishes the fund by issuing tax-exempt, tax-subsidized and taxable bonds that are secured by the loans. NMFA bonds are not obligations of the state and are not a factor in state bond ratings. The separate stand-alone existence of the NMFA increases the overall capacity of the state to support infrastructure financing, especially for economically challenged communities.

Mr. Dillenback told the task force that the NMFA has helped finance many school projects over the years; specifically, he said, the NMFA helped four school districts build a total of seven teacherages between 2003 and 2006. Each of these transactions was secured by a school district's distribution of federal impact aid and teacher rental fees. Congress has since reconsidered the distribution of impact aid and authorizes it for only one year at a time. Mr. Dillenback told the task force that the legislature expanded the PPRF to include funding for charter schools in cases of lease-purchase. The PPRF maintains a high credit rating, and its bonds are highly sought by investors, which allows the NMFA to issue bonds in the capital markets at a very attractive rate. The NMFA passes the pricing benefits it receives in the public capital markets on to New Mexico communities in the form of loans. Disadvantaged funding is offered through the PPRF to qualified disadvantaged entities as determined by a community's median household income. Legislative authorization is required for projects financed in excess of $1 million.

Mr. Dillenback also told task force members that, since its inception, the NMFA has made more than 1,000 PPRF loans, totaling over $2 billion, of which 590 loans received over $68 million in disadvantaged funding. Currently, 703 PPRF loans totaling approximately $1.4

billion are outstanding. Mr. Dillenback told the task force that the PPRF continues to fund school districts' general obligation (GO) bonds for vital capital improvements on a regular basis. In FY 2010, the PPRF funded 14 GO bonds totaling more than $26 million. In FY 2011, the PPRF funded 14 GO bonds totaling almost $37 million. In FY 2012, the PPRF funded nine GO bonds totaling more than $16 million, and in FY 2013, the PPRF funded eight GO bonds totaling more than $12 million. Mr. Dillenback gave task force members examples of collaborative funding between the NMFA and the PSCOC, including funding for the Tucumcari Public School District, the Cuba Independent School District, the Cobre Consolidated School District and others.

Members of the task force asked questions about and discussed bonds and other funds for teacherages, requirements for applicants for PPRF funds, quality of teacherages, the rent that teachers pay to occupy teacherages, standards for teacherages and NMFA funding for charter schools.

PSCOC FY 2014 Awards

David Abbey, chair of the PSCOC and director of the Legislative Finance Committee, told task force members that the purpose of the Public School Capital Outlay Act is to ensure that, through a standards-based process for all school districts, the physical condition and capacity, educational suitability and technology infrastructure of all public school facilities in New Mexico meet an adequate level statewide and that the design, construction and maintenance of school sites and facilities encourage, promote and maximize safe, functional and durable learning environments in order for the state to meet its educational responsibilities and for New Mexico's students to have the opportunity to achieve success.

Mr. Abbey told the task force that programs funded by the Public School Capital Outlay Fund include five-year facility master plans, standards-based construction awards, roof repair and replacement and lease-assistance reimbursements. In order to be eligible for any capital outlay awards from the Public School Capital Outlay Fund, school districts and charter schools must have a current five-year facilities plan in place that includes a functioning preventive maintenance plan. He said that awards for facility master plans follow state and local match requirements, except under certain exceptions. Mr. Abbey told the task force that facility master plan awards for the 2012-2013 year totaled $236,000 for Clayton, Cloudcroft, Corona, Des Moines, Farmington, Lake Arthur and a number of charter schools. District matching funds totaled $195,000.

Mr. Abbey told the task force that the standards-based program has been extremely successful in providing safe and adequate educational space for New Mexico students. Since its inception, the statewide average Facility Condition Index (FCI) has improved from 70 percent to 35 percent. The FCI measures the cost of repair divided by the cost of replacement. The FCI measures only the actual condition of the building and does not include a measure of educational adequacy or any of the individual building systems. The weighted New Mexico Condition Index (wNMCI) measures the condition of the building as well as the facility's educational usefulness.

It does so by examining a school's adherence to the New Mexico educational adequacy standards as well as creating a prioritization of need by assigning weight factors to the categories of building systems and educational adequacy requirements. These weight factors are based on the importance established by the PSCOC. According to Mr. Abbey, the PSCOC opened the application process to the 100 worst schools based on their wNMCI. The top 100 schools have an average wNMCI of 49 percent.

Mr. Abbey referred task force members to a list of the 2013-2014 standards-based awards. Awards include projects for four elementary schools in Albuquerque, one elementary school in Belen, one high school and two elementary schools in Central, one school in Deming, two schools in Farmington, a new elementary school and remodeling an existing elementary school in Gadsden, one school in Gallup, one school in Grants, a new elementary school and remodeling an existing elementary school in Hobbs, a high school in Lordsburg, an elementary school in Mesa Vista, one school in Reserve, one school in Roswell, one school in Silver City and three buildings belonging to the New Mexico School for the Blind and Visually Impaired. The estimated total standards-based awards for 2013-2014 is $162 million. Mr. Abbey told the task force that the amount of funding needed for replacement and repair is greatly diminished due to substantial lowering of the FCI. According to Public School Facilities Authority staff, school districts and charter schools continue to experience persistent maintenance problems. Mr. Abbey told the task force that the Public School Capital Outlay Act does not require districts to prioritize locally generated funding to bring facilities up to adequacy or maintain facilities before spending revenues on projects above adequacy, nor does the act encourage districts to prioritize the worst-ranked facilities. Mr. Abbey told the task force that some schools, including Clayton High School, Floyd combined schools, Yarbro Elementary School in Lovington and several schools in Tatum, remain in poor condition and are not participating in the standards-based program.

Mr. Abbey told the task force that up to $10 million of the Public School Capital Outlay Fund may be used annually by the PSCOC for roof repair and replacement. Money allocated for these projects must be expended within two years. The PSCOC approves roofing projects on an established priority basis; however, for the past several years, no projects have been denied due to the fact that there has been less than $10 million requested for roofing projects. School districts are required to pay the local share of roofing projects. For 2013-2014, the PSCOC approved approximately $10.8 million for roofing projects, of which the state share is $7.1 million. Projects are in 13 school districts with multiple projects in Gallup, Gadsden, Grants and Tularosa.

Mr. Abbey told the task force that lease-assistance funding may be granted to school districts for the purpose of making lease payments for classroom facilities, including facilities leased by charter schools. Grant amounts are the lesser of the actual lease payment of $700 per MEM adjusted by the Consumer Price Index (CPI). Lease-assistance funding may be used by a charter school for lease payments pursuant to a lease-purchase agreement approved by the PED.

Mr. Abbey reviewed some policy considerations with the task force. He suggested that the task force consider shifting funding from entire schools to separate buildings or discrete systems. He also suggested consideration of allocating supplemental severance tax bonds for other critical public school capital outlay needs such as preschools, school buses and increased maintenance, allowing more funding to flow to the STPF and reallocating funding to other critical state needs such as roads and higher education.

Mr. Abbey reviewed some charter school issues with the task force. He told the task force that facility capital needs are growing with the continued growth in charter schools and that many charter schools appear to be paying excessive lease costs. Some charter schools do not take advantage of excess district-owned space. He told the task force that lease-assistance funding discourages schools and property owners from negotiating lease terms and that lease assistance is adjusted automatically based on the CPI, regardless of the market rate. The state is paying lease assistance to some charter schools to lease district-owned facilities.

Members of the task force discussed and asked questions about funding for technology needs in schools, the importance of school maintenance, policy considerations posed by Mr. Abbey, preschool funding in New Mexico, capital outlay funding by systems, allocating funding for the STPF and certain public school earmarks.

Adjournment

There being no further business before the task force, the forty-second meeting of the PSCOOTF adjourned at 3:45 p.m.